

PATENT

Atty Docket No.: 10004571-1

App. Ser. No.: 09/734,996

REMARKS

Favorable reconsideration of this application is respectfully requested in view of the claim amendments and following remarks.

By virtue of the amendments above, claims 1, 13-14, 16, 21, and 29 have been amended. Accordingly, claims 1-30, and 32-37 are pending in the present application, of which claims 1, 13, 16, and 29 are independent. Claim 31 was previously canceled.

Support for the amendments may be found in Fig. 2 and the specification at page 9, lines 10-14, and page 9, line 22, to page 10, line 11. Claim 21 has been amended to correct a typo.

No new matter has been introduced by way of the claim amendments; entry thereof is therefore respectfully requested.

Claims 1-11, 13-18, 23-30 and 32-37 were rejected under U.S.C. §103(a) as being unpatentable over U.S. Patent No. 6,005,603 to Flavin in view of U.S. Patent Application Publication No. 2001/0037500 to Reynolds et al.

Claim 12 was rejected under U.S.C. §103(a) as being unpatentable over Flavin in view of Reynolds et al. as applied in the Office Action to claim 10, in further view of two SMPTE Standards, SMPTE 309M-1999 and SMPTE 12M-1999.

Claims 19-22 were rejected under U.S.C. §103(a) as being unpatentable over Flavin in view of Reynolds et al. as applied in the Office Action to claim 17, in further view of U.S. Patent Application Publication No. 2001/00194 to Sequira.

These rejections are traversed for the reasons stated below.

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Claim Objections

Claim 3 has been objected to in relation to the recital "(SPA) of only specific affiliates" in claim 1 and the recital in claim 3 that the SPA is a program recording application. While the Office Action at page 4 fails to state a reason for making the objection, the Examiner appears to be requesting the Applicant to point out support in the specification for the recited features. It is respectfully submitted that support for the recited features is found as follows: with respect to the recital "(SPA) of only specific affiliates" in claim 1, the specification at page 10, lines 14-20, page 20, lines 26-28, and page 21, lines 3-5; with respect to claim 3's recital that the SPA is a program recording application, the original claim 3 and the specification at page 9, lines 5-7. Thus, the withdrawal of the foregoing objection is respectfully requested.

Claim Rejection Under 35 U.S.C. §103

The test for determining if a claim is rendered obvious by one or more references for purposes of a rejection under 35 U.S.C. § 103 is set forth in *KSR International Co. v. Teleflex Inc.*, 550 U.S. ___, 82 USPQ2d 1385 (2007):

"Under §103, the scope and content of the prior art are to be determined; differences between the prior art and the claims at issue are to be ascertained; and the level of ordinary skill in the pertinent art resolved. Against this background the obviousness or nonobviousness of the subject matter is determined. Such secondary considerations as commercial success, long felt but unsolved needs, failure of others, etc., might be utilized to give light to the circumstances surrounding the origin of the subject matter sought to be patented." Quoting *Graham v. John Deere Co. of Kansas City*, 383 U.S. 1 (1966).

As set forth in MPEP 2143.03, to ascertain the differences between the prior art and the claims at issue, "[a]ll claim limitations must be considered" because "all words in a claim must be considered in judging the patentability of that claim against the prior art." *In re*

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Wilson, 424 F.2d 1382, 1385. According to the Examination Guidelines for Determining Obviousness Under 35 U.S.C. 103 in view of *KSR International Co. v. Teleflex Inc.*, Federal Register, Vol. 72, No. 195, 57526, 57529 (October 10, 2007), once the *Graham* factual inquiries are resolved, there must be a determination of whether the claimed invention would have been obvious to one of ordinary skill in the art based on any one of the following proper rationales:

(A) Combining prior art elements according to known methods to yield predictable results; (B) Simple substitution of one known element for another to obtain predictable results; (C) Use of known technique to improve similar devices (methods, or products) in the same way; (D) Applying a known technique to a known device (method, or product) ready for improvement to yield predictable results; (E) "Obvious to try"—choosing from a finite number of identified, predictable solutions, with a reasonable expectation of success; (F) Known work in one field of endeavor may prompt variations of it for use in either the same field or a different one based on design incentives or other market forces if the variations would have been predictable to one of ordinary skill in the art; (G) Some teaching, suggestion, or motivation in the prior art that would have led one of ordinary skill to modify the prior art reference or to combine prior art reference teachings to arrive at the claimed invention. *KSR International Co. v. Teleflex Inc.*, 550 U.S. ___, 82 USPQ2d 1385 (2007).

Furthermore, as set forth in *KSR International Co. v. Teleflex Inc.*, quoting from *In re Kahn*, 441 F.3d 977, 988 (CA Fed. 2006), "[R]ejections on obviousness grounds cannot be sustained by mere conclusory statements; instead, there must be some articulated reasonings with some rational underpinning to support the legal conclusion of obviousness."

Therefore, if the above-identified criteria and rationales are not met, then the cited reference(s) fails to render obvious the claimed invention and, thus, the claimed invention is distinguishable over the cited reference(s).

Claims 1-11, 13-18, 23-30 and 32-37

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Claims 1-11, 13-18, 23-30 and 32-37 were rejected under U.S.C. §103(a) as being unpatentable over U.S. Patent No. 6,005,603 to Flavin in view of U.S. Patent Application Publication No. 2001/0037500 to Reynolds et al. This rejection is respectfully traversed for at least the following reasons.

Independent claim 1 has been amended to recite a streaming media server comprising, *inter alia*, a detector for identifying an event in the media content and generating an event detection signal, a module for receiving the event detection signal and generating a structural point detection signal in response to determining, based on configuration information, that the event detection signal indicates that the event is a structural point having significance to the media content, and a cue generator for receiving the structural point detection signal and the configuration information and based thereon for generating a private cue having a predefined structure.

It is respectfully submitted that both Flavin and Reynolds et al., either alone or in combination, fail to teach or fairly suggest the above recited features.

Flavin is directed to a system for generating an output function based on the content of a stream information. See Flavin at column 1, lines 47-49. However, Flavin fails to teach or fairly suggest at least generating an event detection signal, generating a structural point based on the event detection signal and configuration information, and a cue generator for receiving the structural point detection signal and the configuration information and based thereon for generating a private cue having a predefined structure.

Reynolds et al. is directed to a data modification system and method for selective insertion of local meta data into an incoming data stream. See Reynolds et al. at abstract.

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However, Reynolds et al. fails to teach or fairly suggest any ways to overcome the above discussed deficiencies of Flavin.

For at least the foregoing reasons, the proposed combination of Flavin and Reynolds et al. fails to teach or fairly suggest all of features of independent claim 1 and its dependent claims.

Independent claims 13, 16, and 29 have been amended to incorporate features similar to those discussed above for claim 1. Thus, for the reasons set forth earlier with respect to independent claim 1, the proposed combination of Flavin and Reynolds et al. fails to teach or fairly suggest all of features of independent claims 13, 16, and 29 and their respective dependent claims.

Dependent claim 12

Claim 12 was rejected under U.S.C. §103(a) as being unpatentable over Flavin in view of Reynolds et al. as applied in the Office Action to claim 10, in further view of two SMPTE Standards, SMPTE 309M-1999 and SMPTE 12M-1999. With respect to claim 12, the Examiner applies Flavin and Reynolds et al. in the same way they were applied with respect to claim 10, which is dependent from claim 1. The Examiner relies on the two SMPTE Standards, SMPTE 309M-1999 and SMPTE 12M-1999 to show additional features recited in claim 12.

However, for the reasons set forth earlier with respect to claims 1 and 10, the proposed combination of Flavin and Reynolds et al. fails to teach or fairly suggest the features of claim 1 above.

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The two SMPTE Standards, SMPTE 309M-1999 and SMPTE 12M-1999, *fail* to teach or fairly suggest ways to overcome the above discussed deficiencies of Flavin and Reynolds et al.

Thus, for at least the above reasons, Flavin in view of Reynolds et al. as applied in the Office Action to claim 10, in further view of two SMPTE Standards, SMPTE 309M-1999 and SMPTE 12M-1999, fails to teach or fairly suggest all of features of claim 12.

Dependent claims 19-22

Claims 19-22 were rejected under U.S.C. §103(a) as being unpatentable over Flavin in view of Reynolds et al. as applied in the Office Action to claim 17, in further view of U.S. Patent Application Publication No. 2001/00194 to Sequeira.

With respect to claims 19-22, the Examiner applies Flavin and Reynolds et al. in the same way they were applied with respect to claim 17, which is dependent from claim 16. The Examiner relies on the Sequeira to show additional features recited in claims 19-22.

However, for the reasons set forth earlier with respect to claims 16 and 17, the proposed combination of Flavin and Reynolds et al. fails to teach or fairly suggest the features of claims 16 and 17 and Sequeira fails to cure the deficiencies of Flavin in view of Reynolds et al.

Thus, for at least the above reasons, Flavin in view of Reynolds et al. as applied in the Office Action to claim 17, in further view of Sequeira fails to teach or fairly suggest all of features of claims 19-22.

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Accordingly, it is respectfully submitted that a *prima facie* case of obviousness has not been established under 35 U.S.C. § 103 with respect to claims 1-30 and 32-37.

Accordingly, the Examiner is respectfully requested to withdraw the rejection of claims 1-30 and 32-37 and to allow these claims.

Conclusion

In light of the foregoing, withdrawal of the rejections of record and allowance of this application are earnestly solicited.

Should the Examiner believe that a telephone conference with the undersigned would assist in resolving any issues pertaining to the allowability of the above-identified application, please contact the undersigned at the telephone number listed below.

Please grant any required extensions of time and charge any fees due in connection with this request to deposit account no. 08-2025.

Respectfully submitted,

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By


Jung H. Kim

Registration No.: 51,299
(703) 652-3820

Ashok K. Mannava
Registration No.: 45,301
(703) 652-3822

MANNAVA & KANG, P.C.
11240 Waples Mill Road
Suite 300
Fairfax, VA 22030
(703) 865-5150 (facsimile)